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TO: Secretary, Federal Communications Commission

FROM: Chester Osheyack , Private Citizen

Re: CC Docket No. 96-45; Reply Comments pursuant to [DA 96 1891]

Specific Reference: Universal Service & Disconnect Authority

Attachment: Copy of filing with Supreme Court, State of Florida;
In FPSC Docket No 951123-TP; excerpts from
Initial Brief in Case No 89,538 Chester Osheyack v
Susan F. Clark, Chairperson FPSC

Date: January 10, 1997

As a child in the first grade of elementary school, I can recall that each day began with a request that the class stand, face the flag placed prominently in one corner of the classroom, put our hands over our hearts, and recite the PLEDGE OF ALLEGIANCE "to the flag of the United States of America, and the republic for which it stands; one nation, under God, indivisible, with liberty and justice for all!" That was almost seventy years ago!

Now, there are powerful forces working diligently to "divide" what we were taught to believe should be "indivisible", and to deny "justice for all" Americans irregardless of where they reside in our great land. The issue of States Rights vs Federal Responsibilities is again being sharply debated. In reality, few will argue that either governing body could or should be replaced by the other. The resolution of this contentious issue then, lies in finding the most effective way to apportion the shared powers and responsibilities of the State and Federal governments.

In considering the matter of "DISCONNECT AUTHORITY", it would appear that the Congressional "findings" as articulated in the Telephone Disclosure & Dispute Resolution Act (TDDRA) of 1992 can be considered to be quite relevant. The stated purpose of the "ACT" was to "protect the public interest....by providing for regulation and oversight of the....industry."

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Cited in the Congressional "findings" as bases for the ACT were the following: (1) exponential vertical industry growth and extraordinarily rapid horizontal growth due to technological innovations; (2) the interstate nature of the industry's development which places much of its activities beyond the reach of individual states; (3) the lack of nationally uniform guidelines which inevitably cause confusion as to the rights of telephone service subscribers and service providers, and the oversight responsibilities of the regulatory authorities; (4) the need for clarity and constancy in articulating the rights and responsibilities of the parties. What strengthens the relevance of this analogy are the more recent developments which muddle the unique characteristics of the defining labels sic LOCAL EXCHANGE CARRIER and INTEREXCHANGE CARRIER. Both of these categories of service provider are currently or contemplate offering competing wire related communications services to each other's customers irrespective of geographic location, limited only by the need for local certification.

It is important to note, with respect to the substance of the TDDRA, that it clearly DISALLOWS SUBSCRIBER DISCONNECTION OR INTERRUPTION OF LOCAL TELEPHONE SERVICE FOR NON-PAYMENT OF NON-RELATED BILLS. Thus, the precedent for repeal of disconnect authority, which the FCC deferred to the states for purposes that are no longer valid, already exists in federal law. The simple fact is that, while some states have repealed disconnect authority on their own initiative and in the interest of their own constituencies, the majority have not, and many never will. For reasons that might vary from ineptitude, inexperience, corruption, or some other form of misguided self-interest, the telephone service subscribers...the people of our nation.... are being denied justice and equal treatment under federal and Constitutional law.

There is no logical reason to consider long distance telephone service, or for that matter any other wire based telecommunications service, as being in any different category than those services recognized in the TDDRA as lacking in linkage with what is defined under law as BASIC LOCAL TELEPHONE SERVICE. The subscriber should receive whatever product

or service he pays for, and the denial of service for non-payment of bills or debts when necessary and appropriate under law, should be limited to that service for which payment is in default.

FCC Chairman Reed E. Hundt, in an exchange with Representative Christopher Cox of California at a Congressional sub-committee hearing in May, 1995, made the following comments:

".....last year (1994), for the very first time, the percentage (penetration of telephone service in total population) dropped about one-half of one percent from the statistics, and that is a meaningful drop. It's the first time in decades."

".....Based on the study that we've done so far, the reason why people are beginning to drop off the telephone system is because we have erroneously linked long distance bills to local telephone bills, and in many places you lose your local service if you have trouble paying your long distance bill. I don't think that is logical. We should change that."

Chairman Hundt is correct! There is no logical nexus between basic local telephone service and long distance telecommunications services. Further, where there are measured rate charges, the cost is logged upon the completion of the call and the customer never knows the magnitude of his bill until he receives it....in most cases long after the expense is incurred. Moreover, as new technological innovations are presented to the market, the bills will get larger and delinquency and non-payment of bills will increase proportionately. Thus the future of the industry must be secured through proper administration of sensible credit policies which meet contemporary market needs. Continuation of severe and abusive non-judicial punishment as a telephone bill collection strategy serves no useful purpose, and is certainly not good public policy.

Now therefore, sound public policy requires that the FCC reclaim its proper jurisdiction over disconnect authority, and that this debt collection tactic ,

which is incompatible with our national standards, be repealed by action of the federal government.

As to the telecommunications companies, it will be necessary for them to determine first, what is legally and morally right, and then to find a way to economically achieve that goal. Given an environment of constancy in application of law, and a predictable consistency between policy and law, you may be sure that American industry can and will rise to the occasion of the need, and bring forth a customer friendly solution to what is today perceived as a problem. It will continue to be a problem, only until it is solved, and it won't be solved until the federal government acts to impose uniformity in the administration of justice under Federal and Constitutional law.

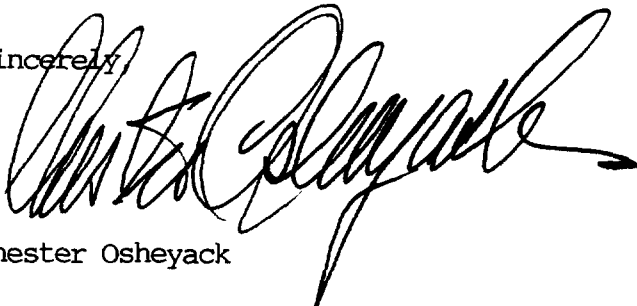
On point, it should be said that real UNIVERSAL TELECOMMUNICATIONS SERVICE, as is mandated under law, will never be achieved while the trade practice known as DISCONNECT AUTHORITY remains as public policy. Moreover, in the absence of a national standard in this matter, corporate planners within the telecommunications industry cannot intelligently address this issue, and will continue to deal with it in a tentative manner.

I am enclosing excerpts of my filing with the Florida Supreme Court which I consider to be germane to your deliberations in this matter. This court filing represents the culmination of a four (4) year effort to obtain justice in my interest and the public interest in my State of Florida.

In 1983, Congress abrogated its responsibility and abandoned the oversight of the telecommunications industry to the Commissions and the Courts. In subsequent actions, the federal commission deferred its responsibility to the state commissions. Most states then did whatever the industry wanted them to do on the premise that by doing so they were serving the public

interest. Now the public interest standard has changed, and under the new federal law, competition in the local markets is the new national standard. It is, therefore, no longer appropriate for the states to establish individual policies which have the potential for creating discriminatory conditions and substantial confusion. Billing and collection is a market based operational function. It must be regulated in accordance with a national standard, and in compliance with federal and Constitutional law.

Sincerely,

A handwritten signature in black ink, appearing to read 'Chester Osheyack', written over the word 'Sincerely,'.

Chester Osheyack

CHESTER OSHEYACK
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Federal Communications Commission
In CC Docket No. 96 - 45
Ref: Universal Telephone Service

ADDENDUM TO MEMORANDUM dtd January 10, 1997

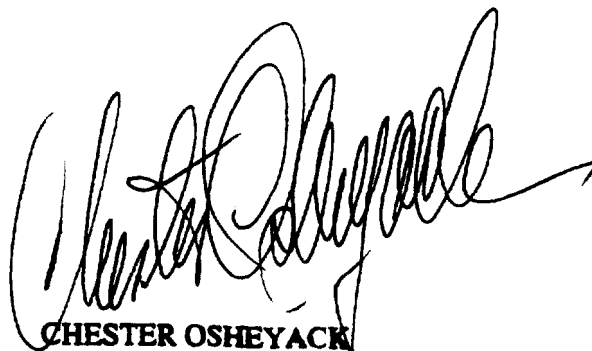
Reply Comments pursuant to [DA 96 1891]

In re ATTACHMENT: 20 pages of excerpts from filing with Florida Supreme Court; INITIAL BRIEF in Case No. 89,538; Chester Osheyack v Florida Public Service Commission; in Docket No. FPSC 951123-TP; Reference Disconnect Authority

Interested parties may obtain copies from:

International Transcription Service
2100 M Street, NW, Rm 140
Washington, D.C. 20037

Or alternatively contact me at the address below:

A large, stylized handwritten signature in black ink, appearing to read 'Chester Osheyack', is positioned above the printed name and address.

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* note: daytime/weekdays bet hrs of 8:00 am and 4:00 pm EST